

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF WASHINGTON

WHITNEY C. PHILLIPS,

Plaintiff,

v.

MAGGIE MILLIER; DONNA BYNES;  
JULIE THOMAS; STEVE DALTON; SAM  
CHINIENI; and WASHINGTON STATE  
(DOC),

Defendants.

NO. CV-08-0298-EFS

**ORDER DISMISSING ACTION,  
ENTERING JUDGMENT, AND  
CLOSING FILE**

On November 4, 2008, the Court advised Plaintiff Whitney C. Phillips that his complaint, alleging that he was released late due to Defendants' mismanagement in the spring of 2005, failed to state a 42 U.S.C. § 1983 claim because § 1983 may not be used to challenge the length of custody and the three-year statute of limitations was not satisfied. (Ct. Rec. 9.) The Court granted Plaintiff leave to file an amended complaint, but cautioned Plaintiff that if the amended complaint was frivolous, malicious, or failed to state a claim upon which relief may be granted, the amended complaint would be dismissed pursuant to 28 U.S.C. §§ 1915A(b)(1) and 1915(e)(2). After being granted an extension of time, Plaintiff filed an amended complaint. (Ct. Recs. 11 & 12.) This amended complaint suffers from the same deficiencies.

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1 Accordingly, **IT IS HEREBY ORDERED:**

2 1. The action is **DISMISSED without prejudice** for failure to state  
3 a claim upon which relief may be granted under 28 U.S.C. §§ 1915(e) (2)  
4 and 1915A(b) (1) .

5 2. **Judgment** shall be entered dismissing this action without  
6 prejudice.

7 3. The file shall be **CLOSED**.

8 **IT IS SO ORDERED.** The District Court Executive is directed to enter  
9 this Order and provide a copy to Plaintiff.

10 **DATED** this 29th day of January 2009.

11  
12 s/ Edward F. Shea  
13 EDWARD F. SHEA  
United States District Judge

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